

STATE OF INDIANA )  
 ) SS:  
COUNTY OF LAKE )

STATE OF INDIANA, )

Plaintiff, )

v. )

BRANDON L. HARRIS, )  
SHEILA CARPURE, )  
DAVID E. YOUNG, Sr., )  
DAVID E. YOUNG, Jr., and )  
QUILLA J. YOUNG, )

Defendants. )

IN THE LAKE SUPERIOR COURT  
FILED IN OPEN COURT  
JULY DIVISION ROOM FIVE  
HAMMOND, INDIANA

SEP 17 2004

*Thomas R. Philpott*  
CLERK LAKE SUPERIOR COURT

CAUSE NO. 45D05-0406-PL-112  
REGISTERED/CERTIFIED  
RECEIVED

SEP 17 2004

*Thomas R. Philpott*  
CLERK LAKE SUPERIOR COURT

*Priority mail  
r.m. 9-15-04*

**MOTION FOR DEFAULT JUDGMENT AGAINST**

**DAVID E. YOUNG, SR., DAVID E. YOUNG, JR., AND QUILLA J. YOUNG ONLY**

The Plaintiff, State of Indiana, by Attorney General Steve Carter and Deputy Attorney General Terry Tolliver, pursuant to Trial Rule 55 of the Indiana Rules of Trial Procedure, respectfully moves the Court to enter a default judgment against the Defendants, David E. Young, Sr., David E. Young, Jr., and Quilla J. Young ("Defendants") only, and in support states:

1. On March 31, 2004, the Plaintiff filed its Complaint for Injunction, Restitution, Costs, and Civil Penalties against the Defendants.
2. Service was made by leaving a copy of the summons and complaint at the Defendants' residence on April 2, 2004, and by sending a copy of the complaint via first class mail.
3. On or about April 13, 2004, the Defendants, David E. Young, Sr., David E. Young, Jr., and Quilla J. Young, appeared by counsel, Dock McDowell, Jr., and requested a Change of Judge from the Lake Circuit Court, which was granted.

4. On or about May 25, 2004, the Defendants filed a Motion for Enlargement of Time to File Answer and/or Other Responsive Pleadings.

5. The Court granted the Defendants' Motion on June 14, 2004, giving the Defendants until June 24, 2004 to file an answer to the Plaintiff's Complaint.

6. On or June 24, 2004, the Defendants filed a Second Motion for Enlargement of Time to File Answer and/or Responsive Pleadings.

7. The Court granted the Defendants' Motion on June 25, 2004, giving the Defendants until July 6, 2004 to file an answer to the Plaintiff's Complaint.

8. On or about July 6, 2004, the Defendants' filed a Third Motion for Enlargement of Time to File Answer and/or Other Responsive Pleadings and requested an additional thirty (30) days in which to file and answer and/or responsive pleadings to the Plaintiff's Complaint, which was denied.

9. On August 30, 2004, pursuant to Trial Rule 55(B) of the Indiana Rules of Trial Procedure, the Plaintiff, State of Indiana, by Deputy Attorney General Terry Tolliver, served the Defendants' counsel, Dock McDowell, Jr., with notice of its intent to apply for judgment, if a response from the Defendants was not received by September 2, 2004. Attached and incorporated by reference as Exhibit "A" is a true and accurate copy of this letter advising opposing counsel of the State of Indiana's intent to apply for judgment.

10. More than five (5) months have elapsed since the Defendants were served with the Plaintiff's complaint.

11. The Defendants have failed to file an answer, plead, or request an additional extension of time in which to answer the Plaintiff's complaint.

12. The Defendants are not infants, incompetent, or in military service.

**WHEREFORE**, the Plaintiff, State of Indiana, requests that the Court enter a default judgment against the Defendants, David E. Young, Sr., David E. Young, Jr., and Quilla J. Young only, for a permanent injunction pursuant to Ind. Code § 24-5-0.5-4(c)(1), enjoining the Defendants from:

- a. representing expressly or by implication that the subject of a consumer transaction has sponsorship, approval, characteristics, accessories, uses, or benefits it does not have which the Defendants know or reasonably should know it does not have;
- b. representing expressly or by implication that the Defendants are able to deliver or complete the subject of a consumer transaction within a reasonable period of time, when the Defendants know or reasonably should know that they can not; and
- c. representing expressly or by implication that a consumer will be able to purchase the subject of a consumer transaction as advertised by the Defendants, if the Defendants do not intend to sell it.

**AND WHEREFORE**, the Plaintiff, State of Indiana, further requests the Court enter judgment against the Defendant, David E. Young, Sr., David E. Young, Jr., and Quilla J. Young only, for the following relief:

- a. cancellation of the Defendant, David E. Young, Jr.'s, unlawful contracts with consumers, Perry Lu, Susan Foster, Tory Smith, and Sean Hulin, pursuant to Ind. Code § 24-5-0.5-4(d);
- b. consumer restitution pursuant to Ind. Code § 24-5-0.5-4(c)(2), from the Defendant, David E. Young, Jr., for money unlawfully received from Perry Lu of Mississauga, Ontario, Canada, in the amount of One Thousand Eight Hundred and Thirty Dollars (\$1,830.00), payable to the Office of the Attorney General;

c. consumer restitution pursuant to Ind. Code § 24-5-0.5-4(c)(2), from the Defendant, David E. Young, Jr., for money unlawfully received from Susan Foster of Vacaville, California, in the amount of One Thousand Six Hundred and Thirty-Nine Dollars (\$1,639.00), payable to the Office of the Attorney General;

d. consumer restitution pursuant to Ind. Code § 24-5-0.5-4(c)(2), from the Defendant, David E. Young, Jr., for money unlawfully received from Tory Smith of Arlington, Texas, in the amount of One Thousand Four Hundred Dollars (\$1,400.00), payable to the Office of the Attorney General;

e. consumer restitution pursuant to Ind. Code § 24-5-0.5-4(c)(2), from the Defendant, David E. Young, Jr., for money unlawfully received from Sean Hulin of Portland, Oregon, in the amount of One Thousand One Hundred and Sixty Dollars (\$1,160.00), payable to the Office of the Attorney General;

f. costs pursuant to Ind. Code § 24-5-0.5-4(c)(3), from the Defendant, David E. Young, Jr., awarding the Office of the Attorney General its reasonable expenses incurred in the investigation and prosecution of this action;

g. civil penalties pursuant to Ind. Code §24-5-0.5-4(g) from the Defendant, David E. Young, Jr., for Defendant David E. Young, Jr.'s knowing violations of the Deceptive Consumer Sales Act, in the amount of Five Hundred Dollars (\$500.00) per violation, payable to the State of Indiana;

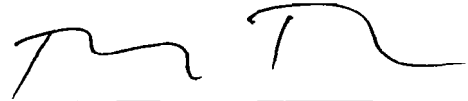
h. civil penalties pursuant to Ind. Code §24-5-0.5-8 from the Defendant, David E. Young, Jr., for Defendant David E. Young, Jr.'s intentional violations of the Deceptive Consumer Sales Act, in the amount of Five Hundred Dollars (\$500.00) per violation, payable to the State of Indiana;

i. indemnification from the Defendants, David E. Young, Sr. and Quilla J. Young, for the damages knowingly, intentionally, or recklessly caused by their child, David E. Young, Jr., as permitted by Ind. Code § 34-31-4-1, and

j. all other just and proper relief.

Respectfully submitted,  
STEVE CARTER  
Indiana Attorney General  
Atty. No. 4150-64

By:

  
Terry Tolliver  
Deputy Attorney General  
Atty. No. 22556-49

Office of Attorney General  
Indiana Government Center South  
302 W. Washington, 5th Floor  
Indianapolis, IN 46204  
Telephone: (317) 233-3300

STATE OF INDIANA  
ATTORNEY GENERAL  
STEVE CARTER

VIA FACSIMILE (219) 736-8525 and U.S. MAIL

August 30, 2004

RE: State of Indiana v. Harris, et al.  
Cause No. 45D05-0406-PL-112

Dock McDowell, Jr.  
7895 Broadway, Suite C  
Merrillville, IN 46410

Dear Mr. McDowell:

On March 31, 2004, the State of Indiana filed its Complaint for Injunction, Restitution, Costs, and Civil Penalties against your clients, David E. Young, Sr., David E. Young, Jr., and Quilla J. Young, as well as several other Defendants in the above-referenced action.

On April 13, 2004, you requested a change of Judge, which was granted. On May 25, 2004, you requested an Enlargement of Time and your clients were given until June 24, 2004 to respond. On June 24, 2004, you filed a Second Motion for Enlargement and your clients were given until July 6, 2004 to respond. Finally, on July 6, 2004, you filed a Motion for a Third Enlargement, which the Court advised me was denied.

Today, I checked with Superior Court Civil Division Room 5, and learned that an Answer had not yet been filed on behalf of your clients. Please understand that your clients have had ample time to respond. It is unreasonable that your clients cannot file a response in the five (5) months that this matter has been pending. If a response is not filed by Noon, Friday, September 2, 2004, the State of Indiana will move for Default Judgment against your clients, the Youngs. Should you wish to contact me, you may call me at (317) 233-3300.

Sincerely,



Terry Tolliver  
Deputy Attorney General  
Consumer Protection Division



DIVISION OF CONSUMER PROTECTION  
INDIANA GOVERNMENT CENTER SOUTH, FIFTH FLOOR  
302 WEST WASHINGTON STREET • INDIANAPOLIS, IN 46204-2770  
TELEPHONE (317) 232-6330 • (800) 382-5516

STATE'S  
EXHIBIT  
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